THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.12657 of 2001

Dated: 05.07.2006

Between:

Sri Ch.Asepu, S/o Devaiah,
R/o H.No.3/99/1.,
Thimmapur of Luxetti of Adilabad District.

... PETITIONER

And:

The Commissioner, Prohibition & Excise,
Hyderabad and others.

RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION No.12657 of 2001

ORDER:

This writ petition is filed seeking a writ of certiorari to set aside the order, dated 30.11.2000, passed by the learned Deputy Commissioner of Prohibition and Excise, Karimnagar, which was confirmed by the Commissioner of Prohibition and Excise, Hyderabad on 16.04.2001.

The grievance of the petitioner is that the vehicle in question was involved in an excise offence and in that regard, it was seized and subsequently after enquiry it was confiscated. Against the said order of confiscation, he preferred an appeal and by impugned order, dated 16.04.2001, the appeal was dismissed without issuing any notice and

without affording any opportunity to him to put forth his case. Hence, he filed the instant writ petition to set aside the order passed in the appeal.

A detailed counter-affidavit has been filed on behalf of the respondents.

Heard the learned counsel for the petitioner and the learned Government Pleader for Prohibition and Excise.

Though it is the contention of the learned counsel for the petitioner that the appellate authority has not issued any notice and the appeal is decided *ex parte*, this Court is unable to accept the said contention in view of the fact that in the order passed in the appeal it is clearly stated that the appeal was coming up for hearing on 24.03.2001 and in spite of giving sufficient notice to the appellant, he was absent on 24.03.2001. The said fact was also reiterated in the counter filed on behalf of the respondents. Hence, the said contention holds no water.

Further the learned counsel for the petitioner submitted that as the vehicle in question was seized, the petitioner furnished Bank guarantee in a sum of Rs.8,000/- and also paid cash of Rs.4,000/-, totaling Rs.12,000/. In view of the said submission, this Court is of the view that the petitioner may be given one more opportunity to appear before the appellate authority and submit his grievances.

Accordingly, the writ petition is allowed and the order dated 16.04.2001, passed in C.R.No.3655/DPE/2000/B2, is set aside. The first respondent-Commissioner of Prohibition & Excise, Hyderabad, is directed to issue a notice to the petitioner, duly fixing the date of hearing of the appeal, within a period of four weeks from the date of receipt of a copy of this order, and on receipt of such notice the petitioner shall appear before him and argue the matter without fail. No

costs.

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05.07.2006

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